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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1273rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 10.20 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Reports to be considered or reviews to be conducted by the Committee at its future sessions (CERD/C/52/Misc.21/Rev.2) (document circulated at the meeting in English only)

1. The CHAIRMAN invited the members of the Committee to comment on the list of reports to be considered or reviews to be conducted at its next session, contained in document CERD/C/52/Misc.21/Rev.2.

2. Mr. BANTON (Rapporteur of the Committee) said he thought the Committee might include in its work programme all the periodic reports listed in section A of the document, consideration of which had been postponed from the fifty-first session, namely those of Tonga, Nepal, Cuba, Kuwait and Niger, and the first seven reports in section B, concerning reports received since March 1997, namely those of Cyprus, Jordan, Morocco, Finland, Peru and the Republic of Korea.

3. Mr. DIACONU asked whether it might be possible to defer consideration of the report of one of those countries, in which the problems were not unduly pressing, and to replace it by the report of Croatia, which was not only submitting its initial report but was also beset by major difficulties.

4. The CHAIRMAN observed that the section of the document containing the list of countries subject to the review procedure, consideration of which the Committee had decided to postpone at the current session, established a highly ambitious programme for the August 1998 session, which already had a very heavy schedule.

5. Mr. de GOUTTES felt that the review of the case of Haiti should definitely be maintained; the review procedure should not, on the other hand, be applied to Mauritania, whose delegation had assured the Committee that the initial report would be ready for the fifty-third session.

6. Mr. HUSBANDS (Secretary of the Committee) said that the report ought already to have reached the secretariat if it was to be translated, reproduced and circulated to the experts in time to be considered at the August 1998 session.

7. Mr. BANTON said that the third periodic report of Estonia should be included in that category instead of in section F, which concerned initial reports overdue for five years.

8. Provision should also be made, under agenda item 6, for consideration of the situation in Bosnia and Herzegovina, the Democratic Republic of the Congo and Rwanda.

9. He reminded the Committee that it was customary for its Chairman to amend the proposed programme between sessions if he found that necessary.

10. Mr. RECHETOV recognized that it would be physically impossible for the Committee to consider a very large number of reports within the time available. Nevertheless, all the countries included in the proposed programme for consideration at the next session should appear in its provisional agenda, otherwise they might not take the Committee's decisions seriously.

11. The CHAIRMAN, bearing in mind that the quality of the examination process might be impaired by the higher priority given to quantity if the Committee proceeded too rapidly, proposed a shortening of the list of reports and situations.

12. Following an exchange of views in which Mr. BANTON, Mr. SHERIFIS, Mr. GARVALOV, Mr. RECHETOV, Mrs. SADIQ ALI, Mr. de GOUTTES and Mr. YUTZIS took part, the CHAIRMAN summarized the decisions that it appeared the Committee wished to take: in addition to the five countries whose cases had not been considered at the fifty-first session, the Committee would include in its programme of work, in the category of reports received since March 1997, those of the following countries: Cyprus, Jordan, Morocco, Croatia and Gabon. It would apply the review procedure to Haiti and Estonia only; it would not consider the cases of the countries listed in section E; and it would include under agenda item 6 the situation in Bosnia and Herzegovina, Rwanda and the Democratic Republic of the Congo.

13. It was so decided.

List of country rapporteurs for the next session (CERD/C/52/Misc.40/Rev.2) (document circulated at the meeting in English only)

14. Mr. BANTON, introducing the list, said it was the Committee's practice to request experts to volunteer to serve as country rapporteurs, it being understood that the same Committee members could not serve twice running as rapporteur for the same country and could not hold the nationality of the country concerned.

15. Mr. de GOUTTES suggested that Ms. McDougall should serve as rapporteur for Haiti. He also wished to know whether Mauritania had been kept on the list of countries subject to the review procedure. If so, he would like to serve as rapporteur for Mauritania.

16. The CHAIRMAN said that Mauritania was not on the list. The Ambassador of Mauritania to the international organizations in Geneva had requested that consideration of the situation in his country should be postponed pending the preparation of the report.

17. Mr. BANTON observed that rapporteurs had not yet been designated for three countries, namely Haiti, Rwanda and the Democratic Republic of the Congo.

18. The CHAIRMAN proposed that the Committee should request Mr. Banton to find volunteers for those countries, to report any changes in the list of rapporteurs and to inform the Secretariat accordingly.

19. It was so decided.

World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance (continued)

20. Mr. GARVALOV requested that the question of preparations for the World Conference should be included in the agenda for the next session.

21. It was so decided.

22. Mr. GARVALOV said that the Committee's contact group had met the previous day with the persons in the Commission on Human Rights who were responsible for preparing the Conference. When he addressed the Commission on Human Rights that afternoon on the Committee's behalf, he would stress the role that the Committee could play in the preparations for the Conference, especially in the context of the Preparatory Committee.

Draft general recommendations

23. Mr. BANTON reminded the Committee that Mr. Diaconu and Mrs. Sadiq Ali had each submitted a draft recommendation which should be considered at the next session.

Consideration of reservations

24. Mr. BANTON said that the Committee would have before it at its next session a memorandum drafted by Mr. Rechetov and Mr. Diaconu concerning reservations. He invited all members of the Committee to contribute to the discussion.

Other business

25. The CHAIRMAN said that other items could be added to the next agenda at the beginning of the session.

Draft decision concerning the holding of the winter sessions of the Committee at United Nations Headquarters in New York (CERD/C/52/Misc.36/Rev.1) (document circulated at the meeting in English only)

26. The CHAIRMAN suggested the deletion of the wording in the draft decision which read: "Having noted the Secretary-General's estimate of the financial implications;", since the Secretary-General had not yet been able to estimate the financial implications in question.

27. Mr. RECHETOV suggested that the draft decision should be considered concurrently with the draft decision (CERD/C/52/Misc.47) on the possible extension of the Committee's next session, since they both had financial implications.

28. The CHAIRMAN said he thought it preferable that the draft decisions should be discussed separately.

29. Mr. de GOUTTES said he wished to abstain on the draft decision concerning the holding of the winter sessions of the Committee because he was not convinced that it would enhance the Committee's efficiency. The draft

decision was liable to be interpreted as a reversal of the current trend towards the centralization of human rights activities in the United Nations Office at Geneva.

30. Mr. van BOVEN, referring to draft decision CERD/C/52/Misc.36/Rev.1, proposed that the penultimate paragraph should be amended to read: "Decides that, in order to discharge its responsibilities under the Convention, it will every second year hold its winter sessions at United Nations Headquarters in New York and continue to hold its other sessions at the United Nations Office at Geneva."

31. Mr. YUTZIS proposed the merger of the two draft decisions in order to facilitate their adoption.

32. The CHAIRMAN said he opposed Mr. Yutzis' proposal, since there had been a consensus on both draft decisions when they were being prepared. He put Mr. van Boven's proposal to the vote.

33. The amendment proposed by Mr. van Boven was adopted by 9 votes to 4, with 3 abstentions.

34. The draft decision, as amended, was adopted by 12 votes, with 4 abstentions.

Draft decision concerning the extension of the Committee's next session (CERD/C/52/Misc.47) (document circulated at the meeting in English only)

35. The CHAIRMAN said that the draft decision (CERD/C/52/Misc.47) would be considered at a later date.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations of the Committee concerning its review of the implementation of the Convention in Saint Lucia (CERD/C/52/Misc.14) (document circulated at the meeting in English only)

Paragraphs 1 to 3

36. Paragraphs 1 to 3 were approved.

37. The draft concluding observations of the Committee concerning its review of the implementation of the Convention in Saint Lucia were adopted.

Draft concluding observations of the Committee concerning the tenth to fourteenth periodic reports of Cameroon (continued) (CERD/C/52/Misc.44, future CERD/C/304/Add.53) (document circulated at the meeting in French only)

38. Mr. de GOUTTES (Country Rapporteur) said that the Committee had already approved most of the paragraphs of the draft concluding observations. However, paragraphs 9-11, 18-21 and 26 of the initial draft had been amended to take account of suggestions made by several members, in particular

Mr. Diaconu and Mr. Valencia Rodriguez. A new paragraph 10 had also been proposed. If it was approved, the following paragraphs would have to be renumbered accordingly.

39. The CHAIRMAN regretted that it had not been possible to circulate a printed text summing up the proposed amendments. He therefore requested Mr. de Gouttes to present the amendments paragraph by paragraph.

Paragraph 9

40. Mr. de GOUTTES said that "peuples autochtones" (indigenous peoples) should be replaced by "populations autochtones" (indigenous peoples) in the first line. It had been suggested that the words "et de la Recommendation No. 23 du Comité sur les droits des populations autochtones" (and of the Committee's Recommendation XXIII on the rights of indigenous peoples) should be inserted after the words "de la Convention" (of the Convention). The second sentence of the paragraph was to be deleted.

41. Mr. GARVALOV said that the recommendation in question was a General Recommendation. He therefore proposed that the word "générale" should be inserted after "Recommandation" ("General" before "Recommendation").

42. Paragraph 9, as amended, was approved.

43. Mr. de GOUTTES suggested the addition after paragraph 9, of a new paragraph 10 which would read: "Des informations sur le régime des étrangers vivant dans l'Etat partie sont également nécessaires" (Information is also required on the legal regime applicable to aliens living in the State party).

44. New paragraph 10 was approved.

45. Mr. de GOUTTES said that the subsequent paragraphs would have to be renumbered. However, for greater convenience, he suggested that the numbering remain as it was while the Committee was considering amendments.

Paragraph 10

46. On the suggestion of Mr. DIACONU, it was proposed that the words "certains cas" (cases) should be replaced by the words "certaines allégations" (allegations) and that the words "au regard de l'article 5 b) de la Convention" (with respect to article 5 (b) of the Convention) should be added after the words "sont exprimées" (was expressed). The corresponding wording in brackets at the end of the paragraph would thus be deleted.

47. Paragraph 10, as amended, was approved.

Paragraph 11

48. Mr. de GOUTTES said that the paragraph had been completely revised and now read: "Concernant l'exercice sans discrimination du droit à la liberté d'expression (art. 5 d) viii)) de la Convention, il est fait état avec inquiétude de certaines allégations relatives à des restrictions dans l'accès à la presse et aux médias parce qu'ils seraient accaparés par certains

groupes" (With regard to the exercise, without discrimination, of the right to freedom of expression (art. 5 (d) (viii) of the Convention), certain allegations relating to restrictions on access to the press and media, because they are said to be monopolized by certain groups, are noted with concern".

49. Mr. GARVALOV asked what was meant by "certain groups".

50. Mr. de GOUTTES said that the expression had been proposed by Mr. Diaconu so as to stress the fact that restrictions on access to the media resulted in nothing less than exclusion. However, he wondered whether paragraph 11 did not duplicate paragraph 20, which also mentioned freedom of expression and freedom of the press. If the members of the Committee agreed, it might simply be deleted.

51. It was so decided.

52. Paragraph 11 was deleted.

Paragraph 18

53. It was proposed that the words "prévenir et d'éliminer des actes de discrimination raciale entre les diverses catégories d'étrangers" (prevent and eliminate acts of racial discrimination between different categories of aliens) should replace the end of the paragraph, after the words "afin de" (to).

54. The CHAIRMAN said that the expression "categories of aliens" brought to mind very unpleasant memories going back to the Second World War.

55. Mr. DIACONU suggested that it be replaced with the expression "entre étrangers" (between aliens).

56. The other members supported that proposal.

57. Paragraph 18, as amended, was approved.

Paragraph 19

58. It was suggested that the words "à toute personne sur son territoire, sans distinction de race, de couleur ou d'origine ethnique" should be added after the words "la jouissance de ce droit" ("all persons within its territory, irrespective of race, colour or ethnic origin," before "enjoyment of the right to security") at the end of the paragraph.

59. Paragraph 19, as amended, was approved.

Paragraph 20

60. It was proposed that the word "toutes" (all) should be deleted before the words "les mesures nécessaires" (necessary measures) in the first line and that the words "à toute personne sur son territoire, sans distinction de race, de couleur ou d'origine ethnique" should be inserted after the words "liberté

de la presse" ("to all persons, irrespective of race, colour or ethnic origin," before "and to guarantee freedom of the press") at the end of the paragraph.

61. Paragraph 20, as amended, was approved.

Paragraph 21

62. In accordance with a suggestion made by Mr. VALENCIA RODRIGUEZ, Mr. de GOUTTES proposed that the words "permettre aux victimes" (allow victims) be replaced by "faciliter le recours à la justice pour les victimes" (facilitate access to the courts for victims) and that the words "de porter plainte devant la justice et d'obtenir la condamnation" (to lodge a complaint with the courts and obtain a conviction) be replaced by "afin qu'elles puissent obtenir la condamnation" (so that a conviction can be obtained). "Ainsi que" (as well as) would be replaced by "et" (and).

63. Mr. VALENCIA RODRIGUEZ said that the word "eventuels" might be inserted after the word "actes" in the second line.

64. Mr. de GOUTTES suggested that the word "condamnation" (conviction) be replaced by the word "jugement" (trial).

65. It was so decided.

66. Paragraph 21, as amended, was approved.

Paragraph 26

67. Mr. de GOUTTES pointed out that the amendments to paragraph 26 were strictly editorial; the new version would read: "Le comité invite l'Etat partie à présenter son prochain rapport périodique, attendu le 24 juillet 2000, sous la forme d'une mise à jour, en tenant compte des points soulevés dans les présentes conclusions" (The Committee invites the State party to submit its next periodic report, due on 24 July 2000, as an update taking into account the points raised in the present observations).

68. Paragraph 26, as amended, was approved.

69. The draft concluding observations of the Committee concerning the tenth to fourteenth periodic reports of Cameroon, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the second to seventh periodic reports of Cambodia (CERD/C/52/Misc.45, Future CERD/C/304/Add.54) (document circulated at the meeting in English only)

Paragraphs 1 and 2

70. Paragraphs 1 and 2 were approved.

Paragraph 3

71. Ms. McDOUGALL suggested that the words "including the recent changes in government" should be inserted after the words "political instability" in the sixth line.

72. Paragraph 3, as amended, was approved.

Paragraph 4

73. Paragraph 4 was approved.

Paragraph 5

74. Mr. RECHETOV said that the reference to NGOs was too vague; it was not clear whether it referred to local or international NGOs.

75. The CHAIRMAN said that it was also too restrictive, since it was somewhat unjust to mention NGOs and to omit such institutions as the Red Cross, which played a very important role.

76. Mr. YUTZIS (Country Rapporteur) said that he accepted those comments. However, if the Committee wished not to leave anyone out, the paragraph would have to be lengthened considerably. He suggested that, in the interests of concision, the original wording should be retained.

77. It was so decided.

78. Paragraph 5 was approved without change.

Paragraph 6

79. After a brief exchange of views between the CHAIRMAN and Mr. NOBEL, paragraph 6 was approved without change.

Paragraph 7

80. Ms. ZOU observed that the paragraph dealt with the same subject as paragraph 8, and proposed that it should be deleted.

81. It was so decided.

82. Paragraph 7 was deleted.

Paragraphs 8 to 11

83. Paragraphs 8 to 11 were approved.

Paragraph 12

84. The CHAIRMAN, speaking in a personal capacity, said he was somewhat deterred by the length of the paragraph. It might well dissuade the State party from taking full note of the paragraph. He proposed the deletion of all but the first sentence.

85. Mr. YUTZIS stressed the fundamental importance of the issues dealt with in paragraph 12, particularly the Khmers' theory of racial supremacy. The Committee must call the attention of the State party to that philosophy, which conflicted with the application of the Convention in Cambodia. He was nevertheless prepared to shorten the paragraph and improve it stylistically.

86. Mr. de GOUTTES agreed with Mr. Yutzis. The text under discussion went to the heart of the matter and touched upon vital issues, particularly with respect to the racial discrimination against Vietnamese in Cambodia. The first sentence, on its own, would be most inadequate unless it was suitably reinforced. He therefore supported Mr. Yutzis' suggestion that any amendments to the text should be of a purely editorial nature.

87. The CHAIRMAN invited Mr. Yutzis to revise the text in conjunction with Mr. Banton.

88. Mr. BANTON proposed that the paragraph should be divided into two parts. He suggested the addition, after the first two sentences of the original paragraph 12, of the words: "The several massacres of ethnic Vietnamese, most of them attributed to the Khmer Rouge, have not been properly investigated. Alarm is also expressed over reports that the exploitation of females of Vietnamese origin, in particular children, is growing. Concern is further expressed over racist attitudes among much of the Khmer population, against the Cambodian-born ethnic Vietnamese, who are still perceived as immigrants.".

89. He also suggested the insertion of a new paragraph 13 reading: "Concern is expressed over the limited educational facilities in the villages of ethnic Vietnamese, the lack of legislation authorizing the establishment of schools for them and the obstacles to their children's learning the Khmer language.".

90. Paragraph 12, as amended, was approved.

Paragraph 13

91. Mr. BANTON said that the letter "s" in the word "Highlands" should be deleted.

92. Paragraph 13, as amended, was approved.

Paragraph 14

93. Mr. DIACONU said that it was not for the Committee to make recommendations to the State party concerning the independence of the judiciary and the establishment of the Constitutional Council, since those matters did not fall within the scope of the Convention. If the Committee wished to draw them to the attention of the State party it should include in

its observations a specific formulation aimed at ensuring the application of the Convention. To that end, he proposed that the words "with a view to bringing to an end the impunity of perpetrators of acts of racial discrimination" should be inserted after "the Constitutional Council," and that the rest of the paragraph should be deleted.

94. Paragraph 14, as amended, was approved.

Paragraphs 15 to 21

95. Paragraphs 15 to 21 were approved.

Paragraph 22

96. Mr. YUTZIS proposed the deletion of the second sentence.

97. Paragraph 22, as amended, was approved.

Paragraphs 23 to 25

98. Paragraphs 23 to 25 were approved.

99. The draft concluding observations of the Committee concerning the second to seventh periodic reports of Cambodia as a whole, as orally amended, were adopted.

Review of the implementation of the Convention in Haiti (continued)

100. In accordance with the course of action adopted by the Committee at its 1247th meeting, on 3 March 1998 (see CERD/C/SR.1247, paras. 66-68), Mr. de GOUTTES (Country Rapporteur) presented a draft letter which could be addressed to the Haitian Government on behalf of the Chairman of the Committee. In the letter, the Government of Haiti would be requested "to take into consideration the points already raised in the letter sent by the Chairman of the Committee on 22 August 1997, namely:

the ethnic composition of the Haitian population;

socio-economic indicators of non-integration or marginalization of the most disadvantaged social groups;

discrimination between blacks, mulattoes and whites and also between rural and urban dwellers;

judicial statistics concerning complaints and judgements with respect to racist crimes;

measures taken to promote the principles of the Convention and to encourage the work of NGOs active in that area and in the field of human rights".

101. The Haitian Government was also invited "to take into consideration in drafting its report the comments made in the reports on the human rights

situation in Haiti prepared by Mr. Adama Dieng, independent expert, and by the Secretary-General of the United Nations, dated 17 and 22 October 1997, respectively".

102. The CHAIRMAN said that the draft presented by Mr. de Gouttes was much too detailed. Besides, it was not for the Committee to concern itself with the measures taken by Haiti to encourage the work of NGOs. He suggested sending to the Government of Haiti a more succinct letter, in which the Committee would confine itself to reminding the Haitian authorities of the terms of the letter sent to them by the Chairman of the Committee on 22 August 1997.

103. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (item 6 of the agenda) (continued)

Draft decision of the Committee concerning Rwanda (continued) (CERD/C/52/Misc.42) (document circulated at the meeting in English only)

Paragraph 4

104. The CHAIRMAN reminded the Committee that, at its 1271st meeting, it had adopted the whole of draft decision 4 (52) on Rwanda, with the exception of paragraph 4 (CERD/C/SR.1271, para. 22). He therefore invited the experts to consider that passage.

105. Mr. BANTON (Country Rapporteur), supported by Ms. McDOUGALL, proposed the addition, at the end of the paragraph, of the words "and called on the international community to give increased assistance to those affected".

106. He also proposed the inclusion of a new paragraph 5 reading: "5. The Committee expressed alarm at reports that a new round of genocidal violence has commenced."

107. The CHAIRMAN said he took it that the Committee was prepared to accept the proposal of Mr. Banton and Ms. McDougall. However, the text did not reflect the comments made by Mr. Shahi during the first reading of the draft.

108. He said that the Committee would continue its consideration of paragraph 4 of the draft decision on Rwanda at its next meeting.

The meeting rose at 1 p.m.